

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF JANUARY 2017

THE HON'BLE MR. JUSTICE M.JAICHANDREN

A.No.6651 of 2016

in

C.S. No.314 of 1930

In the matter of the management and conduct of charities prescribed under the Deed Dt.25.04.1919 executed by M.K.Periyathambi Maracayar - deceased.

Between

1.K.M.Moulana Abdul Rahiman, represented by his paternal uncle Abbas Marakayar as his next friend herein and residing with his step mother Habiba Bi, defendant 12, herein at No.7 Vadamarakayar Street, Madras (declared along with defendants 8,12 and 13 herein as the legal representative of defendant 4 herein (since deceased)

2.The Advocate General of Madras, having its office at the High Court Building Madras, (added as per order of Court date 2.2.1939) ...Plaintiffs

And

1.Mohamed Ibrahim residing at No.10, Jones Street, Madras

2.Abdul Rahiman, residing at No.76, Moore Street, Madras

3.Aisha Bi, residing at No.67, Sowrimuthu Street, George Town, Madras

4.K.M.Fakir Mohideen (since deceased)

5.Jaina Bi, residing at No.67, Sowrimuthu Street, George Town, Madras.

6.Shaik Bi, residing at No.32, Adam Street, George Town Madras

7.M.K.Shamsudeen Marakaya, residing at No.2, Muka Street,
Pondicherry

8.Meerammal, residing at No.7, Vadamarakayar Street - declared
along with the plaintiff and defendants 12 and 13 herein as the
legal representative of defendant 4 herein, since deceased

9.V.M.Sundaramurthy, residing at No.1, Sowrimuthu Street, George
Town, Madras

10.T.M.Thameen (since deceased)

11.S.K.Moulvi Sarafuddin Sahib, residing at Vellore

12.Habiba Bi, residing at No.7, Vadamarakayar Street, George
Town, Madras

13.Abdul Rahim, Minor represented by his mother Habiba Bi,
defendant 12 herein as his guardian - ad-litem, herein,
Nos.12 and 13 declared along with the plaintiff and
Defendant 8 herein as the legal representatives of
Defendant 4 herein, since deceased, and brought on record
as such (Vide order made herein and dated 25.10.1933)

14.T.M.Mohmed Hussain, since deceased

15.Mohamed Bi,
Nos.14 and 15 residing at No.3, Meer Ail Street, George
Town, Madras brought on record as legal representatives of
defendant 10 herein, since deceased, (Vide Order made herein and
dated 29.07.1935)

16.Egammal, Executrix to the estate of V.Mukunda Pillai,
residing at No.1, Sourimuthu Street, Madras, added as party
defendant herein (Vide order made herein and dated 09.07.1935).

17.R.Krishnan, Transferee Decree - holder in C.S.No.6 of 1925 on
the file of this Court, residing at No.27, Hanumantharayan Koil
Street, Triplicane, Madras.

18.Zubeda Bi } Minors represented

19.Fair Ahmed } Mohamed Bi,

20.Habiba Bi } defendant 15 above

21.Hazran Bi } named, as their

22.Balisa } guardian-ad- litem herein

23.Peer Mahmod Ismail } ..Defendants
No.18 to 23 are the legal representatives of T.M.Mahomed
Hussain, Defendant 14, deceased, brought on record as per order
of Court dated 27.07.1937.

A.No.6651 of 2016:

Tmt.Fathimabi,
W/o.Mustafa,
No.3, F-Block,
Santhosh Gardern, Madambakkam Post,
Guduvanchery,
Chennai - 603 202. ...Applicant

vs

The Official Trustee of Madras ,
High Court Campus,
Chennai- 600 104. ...Respondent

Application praying that this Hon'ble Court be pleased to
pass an order direct the respondent herein to enhance the Rabi-
Ul-Awal Miladdunnabi Allowance from Rs.3,000/- (Rupees three
thousand only) to Rs.10,000/- (Rupees Ten thousand only) per
annum.

This application coming on this day before this Court for
hearing the court made the following order:

This application has been filed by the applicant, seeking a
direction to the respondent Official Trustee of Tamil Nadu to
enhance the Rabi-Ul-Awal Miladdunnabi Allowance, from Rs.3,000/-
to Rs.10,000/-, per annum, from and out of the Trust Estate of
M.K. Periyathambi Maracayar.

2 The applicant had stated that one M.K.Periathambi
Maracayar had endowed his properties, by a settlement deed,
dated 25.4.1919 and the object of the same is to distribute food

on the day of the month of Rabi-Ul-Awal (Miladunnabi), every year, and to distribute clothes to the poor, etc. It had been stated that a scheme decree had been passed, by this Court, on 2.5.1939, in C.S.No.314 of 1930. The Official Trustee had been appointed as the sole trustee of the properties of the Trust Estate of M.K.Periyathambi Maracayar. It had been stated that the applicant is one of the trustee of the said Trust and that she had been directed to take charge of the Muthavalli in the said Trust Estate, from 1.4.2016 to 31.3.2017. Earlier, the Official Trustee had filed an application, in A.No.155 of 2013, to enhance the amount from Rs.750/-, per annum, to Rs.3,000/-, per annum, for the celebration of Rabi-Ul-Awal. This Court, by an order, dated 11.1.2013, had enhanced the amount to Rs.3,000/-, per annum. It had been further stated that thereafter, no enhancement had been made till date. Therefore, the applicant had filed the present application to enhance the amount to Rs.10,000/-, per annum, to meet out the expenses incurred for the celebration of Rabi-Ul-Awal, as there was price increase of all the essential commodities.

3 The Official Trustee of Tamil Nadu had filed a report, dated 10.1.2017, stating that the Official Trustee had, earlier, filed an application, in A.No.5687 of 2011, for fixation of payments to the members of the Trust and this Court had also passed an order, dated 10.12.2011, and as per the order passed by this court, the payments are being made by the Official Trustee and the details of the same were set out in the report. It had been further submitted that the funds position of the Trust, as on 27.12.2016, was Rs.50,67,679/-. It had also been stated that the rental and lease income are the only source of income to the Trust and further, there is no enormous hike in

the prices of the essential commodities. Therefore, the Official Trustee had submitted that the applicant's request to enhance the allowance to Rs.10,000/- was unreasonable.

4. Considering the submissions made by the learned counsel appearing on behalf of the applicant, as well as the learned Deputy Administrator General and Official Trustee, and on a perusal of the records, the Court finds it appropriate to enhance the Rabi-Ul-Awal Miladdunnabi allowance, from Rs.3,000/- per annum to Rs.5,000/- per annum. Accordingly, the allowance for Rabi-Ul-Awal is hereby enhanced, from Rs.3,000/-, per annum, to Rs.5,000/-, per annum, with effect from the year, 2016. This application is ordered accordingly.

sd/.M.J.J
25.01.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/24.04.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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